



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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March 30, 2015

Mr. Issac Gaston
Site Selection Specialist
320 First Street NW, Washington, D.C. 20534

Subject: Proposed United States Penitentiary and
Federal Prison Camp, Letcher County, Kentucky
Draft Environmental Impact Statement (DEIS)

Dear Mr. Gaston,

Consistent with our responsibilities under Section 309 of the Clean Air Act and Section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, The U.S. Environmental Protection Agency (EPA), Region 4 has reviewed the above DEIS for the proposed United States Penitentiary and Federal Prison Camp, Letcher County, Kentucky and are providing the following comments for your consideration.

The DEIS states that:

Abstract

The Federal Bureau of Prisons has prepared this Draft Environmental Impact Statement (EIS) to evaluate the environmental impacts of site acquisition and development of a proposed United States Penitentiary (USP) and Federal Prison Camp (FPC) in Letcher County, Kentucky. The proposed action is to acquire the property and construct a new USP, FPC, ancillary facilities and access roads. The purpose of the proposed federal correctional facility in Letcher County, Kentucky, is to develop additional high security and medium-security facilities to increase capacity for current inmate populations in the MidAtlantic Region based on an identified need for additional bedspace. The Bureau has determined that there is a need for additional high-security and medium-security facilities within this region to reduce the demonstrated overcrowding that compromises the mission of the Bureau. The Draft EIS analyzes the direct, indirect, and cumulative impacts of the No Action Alternative, two build alternatives. Alternative 1-Payne Gap and Alternative 2-Roxana, with regard to climate, topography, geology, soils, water, biological and cultural resources, air quality, noise, land use and zoning, socioeconomics, traffic and transportation, recreation, utilities, and hazardous substances.

EXECUTIVE SUMMARY

INTRODUCTION

The Federal Bureau of Prisons (Bureau) is proposing to construct a new United States Penitentiary (USP), Federal Prison Camp (FPC) and associated ancillary facilities in Letcher County, Kentucky. The Bureau has prepared this Draft Environmental Impact Statement (EIS) to analyze the impacts associated with the construction and operation of the proposed action.

The USP is anticipated to be approximately 61,654 square meters (663,638 square foot) and will house approximately 1,088 inmates. The FPC is anticipated to be approximately 6,063 square meters (65,262 square foot) and house approximately 128 inmates. Ancillary buildings would include a central utility plant, firing range, outside warehouse, UNICOR warehouse, and staff training building. A nonlethal/ lethal fence would be installed around the perimeter of the USP. Operation of the USP and FPC would employ approximately 300 full-time staff.

PURPOSE AND NEED

The purpose of the proposed federal correctional facility in Letcher County, Kentucky, is to develop additional high-security and medium-security facilities to increase capacity for current inmate populations in the Mid-Atlantic Region based on an identified need for additional bedspace. The Bureau has determined that there is a need for additional high-security and medium-security facilities within this region to reduce the demonstrated overcrowding that compromises the mission of the Bureau.

PROPOSED ACTION

The proposed action being evaluated in this Draft EIS is the acquisition of property and the construction and operation of a federal correctional facility in Letcher County, Kentucky. The Bureau proposes to acquire approximately 800 acres (324 hectares) to construct a USP (approximately 61,654 square meters or 663,638 square foot) and FPC (approximately 6,063 square meters or 65,262 square foot) in Letcher County. Inmates housed in the USP would be high-security male inmates and those housed in the FPC would be minimum-security male inmates. The proposed facilities would house approximately 1,200 total inmates (approximately 1,088 within the USP and approximately 128 within the FPC). In addition to the USP and FPC, several ancillary facilities necessary for the operation of the USP and FPC would be constructed. A non-lethal/lethal fence would also be installed around the perimeter of the USP. The nonlethal/lethal fence would be placed between two parallel, chain link and razor wire fences.

ALTERNATIVES CONSIDERED

Three alternatives were analyzed in this Draft EIS, the No Action Alternative and two build alternatives:

Alternative 1-Payne Gap and Alternative 2-Roxana.

No Action Alternative

The No Action Alternative does not meet the project purpose and need; however, it represents the existing conditions and is analyzed in the Draft EIS as a baseline for comparing the proposed action. The purpose for this comparison is to allow the federal agency to assess the effects of taking no action versus implementing the proposed action. In some cases the no action alternative would result in impacts to certain resources if the proposed action is not implemented. Therefore, the assessment of the no action Alternative is an important component of all National Environmental Policy Act (NEPA) documents.

Alternative 1-Payne Gap

Under Alternative 1, the Bureau would acquire approximately 753 acres (305 hectares) of land known as the Payne Gap site. The site is located in eastern Letcher County, approximately 7 miles northeast of Whitesburg, along the Kentucky and Virginia border (Figures 2-1 and 2-2). The Bureau would then construct and operate a USP and FPC on this site. Alternative 1 would require extensive earthwork to prepare the site for development. Approximately 8,342,922 cubic meters (10,912,130 cubic yards) of excavation and 10,568,450 cubic meters (13,823,012 cubic yards) of fill would be required prior to the beginning of construction activities.

Alternative 2-Roxana

Under Alternative 2, the Bureau would acquire approximately 700 acres (283 hectares) of land known as the Roxana site. The site is located 7.5 miles west of Whitesburg, Kentucky (Figures 2-1 and 2-4). The Bureau would construct and operate a USP and FPC on this site.

Alternative 2 would also require extensive earthwork to prepare the site for development. Approximately 2,929,582 cubic meters (3,831,749 cubic yards) of material would need to be excavated from the site and
Approximately 3,282,234 cubic meters (4,293,001 cubic yards) of fill would be required to prepare the site for construction activities.

PUBLIC INVOLVEMENT

The Bureau published a Notice of Intent to prepare an EIS on July, 26, 2013. The Bureau held a 30-day scoping period between July 26 and August 26, 2013. A public scoping meeting was held during this scoping period. The meeting was held August 13, 2013 to inform the public about the proposed project and to explain NEPA and the associated

environmental impact analysis. A total of 453 community members attended the public meeting and a total of 320 comments were received during the 45-day public comment period. Additionally, 169 letters of support were presented at the public meeting, as well as two petitions in support of the project with a total of 124 signatures. Scoping comments were in support of the project with no major issues or concerns raised.

SUMMARY OF ENVIRONMENTAL EFFECTS

Table ES-1 provides a summary of the potential environmental effects from the No Action Alternative and the two build alternatives: Alternative 1-Payne Gap and Alternative 2-Roxana. Potential mitigation and site preparation costs have also been provided in this table. These mitigation measures and costs are likely to change over the course of the project, coordination with various agencies, and formal development of mitigation measures with the agencies; however, this is the best available information at the time this Draft EIS was drafted and serves to assist in the comparison of the alternatives.

PURPOSE AND NEED FOR THE PROPOSED ACTION

The United States (U.S.) Department of Justice, Federal Bureau of Prisons (Bureau) has prepared this Draft Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) of 1969, the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508, and the Department of Justice procedures for implementing NEPA (28 CFR 61). The Bureau's Draft EIS evaluates the potential environmental consequences of the proposed construction and operation of a federal correctional facility in Letcher County, Kentucky. Two action alternatives and the No Action Alternative are assessed.

BACKGROUND

The Bureau was established in 1930 to provide more progressive and humane care for federal inmates, to professionalize the prison service, and to ensure consistent and centralized administration of federal prisons. The mission of the Bureau is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

SECURITY LEVELS

The Bureau accomplishes its mission through the appropriate use of the following types of community-correction, detention, and correctional facilities:

- Federally owned and operated
- Federally owned and non-federally operated
- Non-federally owned and operated

Regardless of facility ownership, the Bureau operates correction and detention facilities at various security levels. Each security level is characterized by the type of housing within the institution, internal security features, and staff-to-inmate ratio. Different security levels require particular features such as external patrols, guard towers, security barriers, or detection devices. The five categories of security levels are described as follows:

- **Minimum-Security** - Also known as Federal Prison Camps (FPCs) or satellite work camps. They are characterized by dormitory housing, a relatively low staff-to-inmate ratio, and are without fences. They are typically associated with a larger institution or military base where inmates can help serve labor needs of the institution or base.
- **Low-Security** - Federal Correctional Institutions with double fenced perimeters, primarily dormitory housing, and strong work and program components.
- **Medium-Security** - Federal Correctional Institutions with strengthened perimeters (e.g., double fences with electronic detection systems), cell-type housing, a wide variety of work and treatment programs, and an increased inmate-to-staff ratio to provide greater control.
- **High-Security** - Also known as United States Penitentiary (USP). These facilities have highly secure perimeters (e.g., walls or double fences with taut wire fencing, non-lethal/lethal fences), multiple single occupant cell housing, guard towers, close staff supervision, and movement controls.
- **Administrative** - Institutions that house offenders who require an uncommon level of security due to their serious records of institutional misconduct, involvement in violent or escaperelated behavior, and/or who have unusual security needs based on the nature of their offense. These facilities have highly secured perimeters consisting of walled or double fenced enclosures with guard towers.

EXISTING FEDERAL PRISON POPULATION

In 1981, the federal inmate population consisted of approximately 23,800 inmates. By 1986 the federal inmate population had increased to about 38,700: a 63 percent increase. Growth continued at a steady rate through the 1990s and in 1998 the federal inmate population had grown 280 percent, reaching 1008,000 inmates. As of November 7, 2014, the Bureau inmate population reached 213,620; this includes 171,744 inmates being housed in 120 Bureau institutions, 27,627 being housed in privately-managed secure facilities, and 14,249 being housed in other contract care. Of the 171,744 inmates housed in Bureau institutions, 23,988 are high-security inmates. The Bureau houses these 23,988 high-security inmates in 19 USPs located throughout six regions within the U.S.: the Mid-Atlantic Region; North Central Region; Northeast Region; South Central Region; Southeast Region; and Western Region. Each region provides facilities for housing inmates at all security levels. The 19 USPs are rated for a total capacity of 14,274 high-security inmates. Therefore, the Bureau's high-security institutions are currently 52 percent overcrowded and are operating at above rated capacity.

To meet the current and projected bedspace needs, the Bureau evaluates the bedspace needs of the regions using a geographically balanced program. When considering placement of an individual, the Bureau considers the origin of the inmate and attempts to place the inmate in an institution that is within the region of the inmate's origin. Placing inmates within their region of origin provides greater opportunity for visitation with family, which aids in the rehabilitation process.

FEDERAL BUREAU OF PRISONS MID-ATLANTIC REGION

One of the regions identified by the Bureau as having an increasing need for additional high-security bedspace in order to reduce overcrowding in the Mid-Atlantic Region. Approximately 5,802 inmates, including those in special programs, are housed within the Mid-Atlantic Region. The current rated capacity for these institutions is 3,400. Therefore, the Bureau has determined that due to the overcrowding in the Mid-Atlantic Region, specifically within the USPs and FPCs, that construction of a new high-security facility would be warranted in the region.

There are currently 15 correctional facilities within the Bureau's Mid-Atlantic Region. Of these, only four are USPs or high-security facilities: USP Hazelton located in Hazelton, West Virginia, USP Lee located in Jonesville, Virginia, USP Big Sandy located in Inez, Kentucky, and USP McCreary located in McCreary, Kentucky. Table 1-1 depicts the current populations associated with each of the USPs in the Mid-Atlantic Region.

Table 1-1. Mid-Atlantic Region USP inmate Population

USP	Existing Inmate Population (does not include those in	Rated Capacity
Hazelton	1,440	840
Lee	1,43	880
Big Sandy	1,24	800
McCreary	1,32	880
Total	5,80	3,40

PURPOSE AND NEED

The purpose of the proposed federal correctional facility in Letcher County, Kentucky, is to develop additional high-security and medium-security facilities to increase capacity for current inmate populations in the Mid-Atlantic Region. The need for the proposed facility is that the current inmate populations of the USPs in the Mid-Atlantic Region are exceeding their rated capacity and their associated FPCs are at or near capacity. The Bureau has determined that there is a need for additional high-security and medium-security facilities within this region to reduce the demonstrated overcrowding that compromises the mission of the Bureau. The Bureau's mission is to protect society by confining offenders in the controlled environments of prisons and community-based

facilities that are safe, humane, cost-efficient, and appropriately secured, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

PROPOSED ACTION

The proposed action being evaluated in this Draft EIS is the acquisition of property and the construction and operation of a federal correctional facility in Letcher County, Kentucky. The Bureau proposes to acquire approximately 800 acres (324 hectares) to construct a USP (approximately 61,654 square meters [663,638 square foot]) and FPC (approximately 6,063 square meters [65,262 square foot]) in Letcher County. Inmates housed in the USP would be high-security male inmates and those housed in the FPC would be minimum-security male inmates. The proposed facilities would house approximately 1,216 total inmates (approximately 1,088 within the USP and approximately 128 within the FPC). In addition to the USP and FPC, several ancillary facilities necessary for the operation of the USP and FPC would be constructed. A non-lethal/lethal fence would also be installed around the perimeter of the USP. The non-lethal/lethal fence would be placed between two parallel, chain link and razor wire fences. The fence would be approximately 12 feet high. The ancillary facilities would include the following:

- Central Utility Plant-1,217 square meters (13,100 square foot)
- Firing Range-96 square meters (1,033 square foot)
- Outside Warehouse-3,279 square meters (35,295 square foot)
- UNICOR Warehouse-1,375 square meters (14,800 square foot)
- Staff Training Building-910 square meters (9,795 square foot)
- Garage/Landscape Building-653 square meters (7,028 square foot)
- Access Roads

Operation of the USP and FPC would employ approximately 300 full-time staff.

General Design Features of the United States Penitentiary and Federal Prison Camp

The Bureau has standard design layouts for their correctional facilities that include similar design characteristics. General design features of a USP include:

- Single road for controlled access to each correctional facility
- Parking lot located near the public entrance to each correctional facility for use by both employees and visitors
- One- to four-story structures
- Multipurpose activity spaces

- Buffer areas around the facility providing visual and physical setbacks from the sites boundaries

ENVIRONMENTAL REVIEW PROCESS

National Environmental Policy Act

In 1969, Congress enacted the National Environmental Policy Act (NEPA), which requires consideration of environmental issues in federal agency planning and decision-making. Regulations for federal agency implementation of the act were established by the President's CEQ. NEPA requires federal agencies to prepare an environmental assessment (EA) or environmental impact statement (EIS) for any federal action, except those actions that are determined to be "categorically excluded" from further analysis. An EIS is prepared for those federal actions that may significantly affect the quality of the human and natural environments or where the impacts are largely unknown or controversial. The EIS must disclose significant environmental impacts and inform decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. The intent of this EIS is to document the potential environmental impacts associated with the proposed action, acquisition of property and construction and operation of a USP and FPC. The Bureau is the decision-maker with regard to this proposed action. This document, together with its appendices and other documents incorporated by reference, constitutes the Draft EIS pursuant to NEPA, the CEQ regulations, and the Department of Justice procedures for implementing NEPA.

The Draft EIS evaluates environmental impacts to: land use and zoning; topography, geology, and soils; socioeconomics and environmental justice; community facilities and services (fire and police services, emergency services, health care facilities, etc.); transportation and traffic; air quality; noise; infrastructure and utilities; cultural resources (historic properties, archaeology); water resources; biological resources (threatened and endangered species, wetlands, vegetation, etc.); and hazardous materials and waste. The evaluation will determine the potential impacts of the proposed action and, if necessary, where impacts may be avoided or minimized, as well as if the impacts would require mitigation. The evaluation of the proposed sites will also determine which site would result in the least amount of impact to the environment.

Related Environmental Documents

In 2008, the Bureau conducted a site reconnaissance study in Letcher County, Kentucky. The site reconnaissance report identified several resources associated with potential sites that would require additional studies to determine if the sites were viable for the development of a federal correctional institution. Based on this 2008 study, a second study was conducted in 2010 to rank these sites and verify that the issues originally identified in 2008 had not changed. Based on the data collected from both the

2008 and 2010 studies, it was determined that a feasibility study to analyze the resources of concern would be conducted to further assess the viability of construction at each of the sites.

In 2012 a feasibility study was completed by the Bureau to evaluate four potential sites for the development of a USP and FPC in Letcher County, Kentucky (TEC, Inc. 2012). The purpose was to conduct additional studies, including wetland identification and delineation, cultural resource surveys, geotechnical studies, boundary surveys, and a utility assessment of the proposed sites to determine if there would be constraints associated with these resources and the development of the sites. The feasibility study evaluated the benefits, challenges, and potential risks associated with development of each site. Based on the results of the feasibility study and changes with the offers of sites, it was determined that two sites, Payne Gap and Roxana, would be carried forward for analysis in this Draft EIS.

Agency coordination

In addition to NEPA, other laws, regulations, permits and licenses may be applicable to the proposed action. Specifically, the proposed action may require:

- Informal consultation with U.S. Fish and Wildlife Service regarding the occurrence of threatened and endangered species within the sites
- Concurrence from the State Historic Preservation Officer on cultural resource findings
- Clean Water Act Section 404 permit if wetland impacts occur
- National Pollutant Discharge Elimination permit for non-point source discharge
- Erosion and sedimentation control plan for new construction.

Public Involvement

NEPA requires the public be informed and involved throughout the development of the EIS, beginning with public scoping. The public scoping meeting is an opportunity for the federal agency, in this case the Bureau, to introduce the project to the public and receive input on the scope of the issues to be addressed in the EIS. The local public has knowledge of the area where the proposed action may take place, and can provide insight into local resources, as well as to the concerns of the community. Public involvement in the NEPA process is required and is an extremely valuable tool in the successful completion of NEPA documents.

The official scoping period for this project began when the Bureau published a Notice of Intent to prepare an EIS on July, 26, 2013, in the *Federal Register*, and lasted until August 26, 2013. A scoping meeting was held on August 13, 2013 to inform the public about the proposed project and to explain NEPA and the associated environmental impact analysis. A total of 453 community members attended the public meeting and a total of 320

comments were received during the 45-day public comment period. Additionally, 169 letters of support were presented at the public meeting, as well as two petitions in support of the project with a total of 124 signatures. Scoping comments were in support of the project with no major issues or concerns raised.

ALTERNATIVES

CEQ's guidelines for implementing the procedural Provisions of the NEPA establish a number of policies for federal agencies, including "...using the NEPA process to identify and assess reasonable alternatives to the proposed action that will avoid or minimize adverse effects of these actions on the quality of the human environment" (40 CFR 1500.2[e]). The guidelines also require an analysis of alternatives based "on the information and analysis presented in the sections on the Affected Environment (§1502.15) and the Environmental Consequences (§1502.16)." The guidelines further state that the analysis "should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice." According to CEQ guidelines the alternatives analysis is also required to:

- "Include the alternative of no action";
- "...explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated";
- "Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits";
- "Include reasonable alternatives not within the jurisdiction of the lead agency";
- "Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference"; and
- "Include appropriate mitigation measures not already included in the proposed action or alternatives."

The analysis of alternatives considered in this EIS was conducted under these guidelines to address the following:

- **No Action Alternative.** A decision not to proceed with the proposed action to develop a new USP and FPC.
- **Alternative Locations-Nationwide.** Locations other than the Letcher County, Kentucky area for implementation of the proposed action.

- **Alternative Locations.** Within the Geographic Area of Interest Warranting Consideration. Potential site(s) which meet minimum requirements for accommodating the proposed facility; are located with the geographic area of interest (Kentucky); and have been offered and are available for Bureau consideration.

A discussion of these alternatives follows. No reasonable alternatives outside the jurisdiction of the Bureau (the lead agency) have been identified or warrant inclusion in the Draft EIS.

NO ACTION ALTERNATIVE

Under the No Action Alternative, the Bureau would not acquire property or construct and operate a new USP or FPC. Existing USPs would remain overcrowded and prevent the Bureau from meeting its mission.

The No Action Alternative would avoid potential impacts associated with the development of a USP and PC. The No Action Alternative does not meet the project purpose and need and is therefore, not considered a viable alternative. The No Action Alternative is discussed in this EIS because it serves as a baseline against which to compare the action alternatives.

ALTERNATIVE LOCATIONS-NATIONWIDE

The locations of new federal correctional facilities are determined by the need for incarceration in various regions of the country and the resources available to meet that need. To meet these needs the Bureau routinely identifies and evaluates potential sites that may be appropriate for development of new federal correctional facilities. Under an ongoing Congressional mandate, consideration is given to surplus properties while other publicly- or privately-owned properties offered to the Bureau are also examined for possible use.

The initial steps in the planning process include the identification and evaluation of potential sites. Identification of a site that has the potential to house more than one federal correctional facility is a key factor in the evaluation of sites. Acquisition of property that has the potential for facility expansion provides the Bureau with the opportunity to expand as the inmate population grows. The Bureau also responds to initiatives from communities requesting consideration to host new federal correctional facilities. When approached by a community to host a facility, the Bureau's first steps are to visit the sites offered and:

- Identify the interest and support of the community, including the support/opposition of elected and appointed officials, community leaders, stakeholders, and the general public in having a federal correctional facility within their community

- Identify suitable locations for development of the federal correctional facility based on infrastructure conditions, environmental resources, land use and zoning, and other related criteria
- Determine the on-site conditions including constructability of the site
- Identify potential environmental issues that require consideration under NEPA (National Historic Preservation Act, Clean Water Act, Endangered Species Act, etc.)
- Determine what further investigations and detailed studies may be warranted to obtain additional information about the potential sites

After the initial screening process, those sites with favorable conditions are moved forward and evaluated under another set of criteria, including optimal infrastructure and environmental requirements. The criteria used to evaluate the sites are established by the Bureau; however, these general criteria can be supplemented if needed to assess issues or potential issues and make sure they are addressed adequately in the evaluation of the sites. The general criteria the Bureau uses to screen potential sites for development include:

- The site should have sufficient land area (300-350 acres minimum [121-142 hectares]) to accommodate the institution and ancillary facilities, provide a buffer zone between the facility and neighboring properties, and allow for future expansion
- Proposed site should be relatively flat (less than 10 percent grade) to provide for minimal site preparation and proper drainage (this can be affected by geographic regions with mountainous terrain)
- Sites should avoid significant environmental resources (i.e., floodplains, wetlands, threatened and endangered species, cultural and historic resources, etc.)
- Sites should avoid potential incompatible land use conflicts.
- Emergency services, including police and fire protection, and utilities should be able to provide services to the prospective sites
- Site should be served by well-maintained state and county roadways to ensure safe commutes for employees, service vehicles, and visitors
- Support of key elected officials, community leaders, the public and owners of the sites

Sites that the Bureau determines meet these general criteria, and are viable for the development of a federal correctional facility, are then evaluated in more detail in either an EA or EIS, in compliance with NEPA.

ALTERNATIVES DEVELOPMENT

The Bureau has a priority need for additional facilities within the Bureau's Mid-Atlantic Region, which includes the State of Kentucky. The Bureau was contacted by the Letcher County Planning Commission (LCPC) with an offer of potential sites for a new USP and FPC in Letcher County, Kentucky. Understanding the needs of the Bureau, the LCPC identified potential locations for development and brought these sites to the attention of the Bureau to determine if the Bureau had an interest in developing a new facility at one of the locations. The opportunity to provide additional bedspace in Letcher County would meet the need for additional capacity within the Mid-Atlantic Region, afford the Bureau continued management of inmates originating from the region, and allow those inmates to remain close to family and friends.

The process to identify potential sites for constructing a USP and FPC in Letcher County began in 2008 with site reconnaissance studies of four sites that had been offered to the Bureau by members of the community. The purpose of the site reconnaissance studies was to collect preliminary data on the sites and determine their suitability for development based on site conditions, infrastructure and utilities, and environmental resources. Based on this initial analysis, it was determined that the four sites evaluated should be studied in more detail in a feasibility study: Meadow Branch, Payne Gap, Roxana, and Van Fields. The feasibility study provided an opportunity for more detailed analysis of each site and identified constraints that may eliminate a site from further consideration. In 2011, the Bureau completed a feasibility study that assessed cultural resources, wetlands, geologic conditions, and infrastructure. The feasibility study also included the production of aerial and topographic mapping, and a boundary survey. During the initial phases of the feasibility study, the Meadow Branch site was removed from further consideration due to changes with the offeror, and the site no longer available for consideration by the Bureau; therefore, no detailed analysis of the site was included in the feasibility study. During the feasibility study for the remaining three sites, wetlands were delineated, archaeological and historic structures surveys were completed, and geotechnical studies were conducted. The feasibility study highlighted potential concerns with development of the sites, as well as estimated costs of infrastructure improvement and site preparation (excavation and or fill at each site, and grading activities) on each site. The feasibility study determined that there were no constraints that would prevent development of the three sites (TEC, Inc. 2012). During the finalization of the feasibility study there were changes with the offeror of the Van Fields site, and this site was removed from further consideration. The remaining two sites, Payne Gap and Roxana, were identified as alternatives to be carried forward for study in an EIS (Figure 2-1).

ALTERNATIVE 1 -PAYNE GAP

Under Alternative 1, the Bureau would acquire approximately 753 acres (305 hectares) of land known as the Payne Gap (Payne Gap) site. The site is located in eastern Letcher County, approximately 7 miles northeast of Whitesburg, along the Kentucky and Virginia border (Figures 2-1 and 2-2). The Bureau would then construct and operate a USP and FPC on this site. The site is situated on a gently sloped to steeply sloped upland land form above the Kentucky River at its confluence with the Laurel Fork. State Route 119 is located along the north end of the proposed site and would provide site access. The site is forested with secondary growth forests and the original topography of portions of the site have been altered by past surface mining and associated mining activities such as spoil piles, roads, and fill piles. Mining permit applications indicate surface and underground mining operations have occurred within the proposed project site since the 1950s. Figure 2-3 depicts the proposed conceptual layout of the facility at the Payne Gap site. To accommodate the USP, FPC, ancillary buildings, and roads as described in Section 1.6, *Proposed Action*, the site would require extensive excavation and fill material to level and prepare the site for construction. The Bureau would require a minimum of 300 acres (121 hectares) for construction of the USP and FPC at this site. Table 2-1 depicts the site preparation quantities.

Table 2-1. Estimated Site Preparation Quantities for Alternative 1- Payne Gap

Activity	Quantity
Spoil Excavation	2,794,660 yd ³
Rock Excavation	8,117,470 yd ³
Structural Fill	1,716,095 yd ³
Spoil Fill	12,106,917 yd ³
Dynamic Compaction	0
Clear Mined Area	7 ac
Clear Forest Area	211 ac

Notes yd³ = cubic yards, ac = acres.

ALTERNATIVE 2 -ROXANA

Under Alternative 2, the Bureau would acquire approximately 700 acres (283 hectares) of land known as the Roxana site. The site is located 7.5 miles west of Whitesburg, Kentucky (Figures 2-1 and 2-4). The Bureau would construct and operate a USP and FPC on this site. Figure 2-5 depicts the proposed conceptual layout of the facility at the Roxana site. To accommodate the USP, FPC, ancillary buildings, and roads as described in Section 1.6, *Proposed Action*, the site would require extensive excavation of spoil material and lesser amounts of structural fill and spoil fill. Preparation of the site for construction activities would also require dynamic compaction, clear mined area, and forest clearing. The Bureau would require a minimum of 300 acres (121 hectares) for construction of the USP and FPC at this site. Table 2-2 depicts site preparation quantities."

Table 2-2 Estimated Site Preparation Quantities for Alternative 2 –Roxana”

Activit	Quantit
Spoil Excavation	2,928,992
Rock Excavation	902,757
Structural Fill	2,087,607
Spoil Fill	2,205,394
Dynamic Compaction	25
Clear Mined Area	82
Clear Forest Area	79

EPA COMMENTS TO DEIS

1. The Final Environmental Impact Statement (FEIS) should clearly state which is the Preferred Alternative and should include clear discussions and conclusions “why the Preferred Alternative was selected compared to the other alternatives. The Preferred Alternative” should be individually evaluated, i.e., without solely referencing to the impacts attendant to other alternatives. The identified additional information, data, analyses, or discussion should be included in the Final EIS.
2. The Final Environmental Impact Statement (FEIS) should include time schedule showing proposed start and finish dates for each project task.
3. The Bureau should comply to the maximum possible degree with the recommendations comments made by the recipients listed in the DEIS Distribution List.
4. EPA recommends the Bureau monitors the contractor closely during construction to ensure compliance with the implementation of all of these permitting and regulatory requirements.
5. The Bureau should ensure the public is well informed at all times through frequent meetings, flyers, announcements and public hearings to secure their support and input for the project.
6. If there is any recycling, it should be done according to Department of Defense (DoD) 4160.21-M/chapter 7 RESOURCE RECOVERY AND RECYCLING PROGRAM (RRRP) which states: All installations, worldwide, shall have recycling programs as required by Executive Order 12780. Pursuant to Public Law 97-214 (10 USC 2577), and DoD Instruction (DoDI) 4715.4, Pollution Prevention.
7. The Bureau should ensure the project implements the best management practices (BMP), elements of Green Building techniques, recycling of materials, disposal of federal property per federal regulations for disposal of federal property and etc.
8. Attachment Number 1 is a check list of items that could help facilitate your compliance with the NEPA regulations.
9. Other links that could be beneficial to the project include:
 - Waste Reduction Resource Center - hosted by North Carolina but it is an EPA Region 4 resource - <http://wrrc.p2pays.org/>
 - Industrial materials - <http://www.epa.gov/osw/conservation/rrr/imr/index.htm>
 - http://www.fema.gov/plan/prevent/fhm/dl_zone.shtm
 - C&D - <http://www.epa.gov/osw/conservation/rrr/imr/cdm/>
 - www.epa.gov/nscep/

<http://www.pavementpreservation.org/toolbox/links/arrafull.pdf>
<http://www.secement.org/fdr.htm>
http://www.cement.org/pavements/pv_sc_fdr.asp
<http://www.techtransfer.berkeley.edu/newsletter/04-2/refs.php>
<http://www.youtube.com/watch?v=s7w7gsFYNzA>

The EPA supports your projects and we thank you for the opportunity to provide comments for your consideration. The EPA has rated the DEIS as EC-2 which indicates that:

EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment.

2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment.

The additional information, data, analyses, or discussion should be included in the Final EIS before EPA can concur with the project. Should you have questions regarding our comments, please contact Rafael Santamaria at (404) 562-8376 or at santamaria.rafael@epa.gov of my staff.

Sincerely,



Heinz Mueller, Chief
NEPA Program Office
Resource Conservation Recovery Division

Attachment

**ATTACHMENT NUMBER 1
ENVIRONMENTAL PROTECTION AGENCY REGION 4
NEPA CHECK LIST**

Consistent with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (EPA), Region 4 offers the following general comments/suggestions for your consideration/inclusion that could help facilitate your compliance with the NEPA regulations in this project and in future Draft Environmental Impact Statement (DEIS), Draft Environmental Assessment (DEA) and/or Final Environmental Impact Statement (FEIS) for: **Proposed United States Penitentiary and Federal Prison Camp, Letcher County, Kentucky.**

1. FEIS development must be consistent with Section 309 of the Clean Air Act.
2. The FEIS should include clear discussions and conclusions why the Preferred Alternative was selected compared to the other alternatives. The "Preferred Alternative" should be individually evaluated, i.e., without solely referencing to the impacts attendant to other alternatives.
3. The FEIS should have a complete list of abbreviations, definitions, acronyms and symbols
4. Similar subjects/terminologies should be cross-referenced with like definition shown/found on other document's pages.
5. The FEIS should be specific and describe what facilities or portions of the facilities will be demolished and when. Any deconstruction (demolition) should be done according to the state Historic Preservation Officer (SHPO), the National Historic Preservation Act (NHPA)'s rules, regulations and guidelines and should ensure disposal of federal property is done according to federal regulations for disposal of federal property. Ensure the demolition and construction debris be properly handled by licensed contractors (if needed) and disposed in licensed sanitary landfills for each type of debris.

In construction/demolition projects the FEIS should address: proper handling of hazardous materials removal and disposal (asbestos, PCBs, lead from paint), and waste management (e.g., reuse or recycling as opposed to landfill dumping); wastewater management, indoor air quality, energy and water conservation (e.g., low flow toilets, energy efficient windows and doors, efficient lighting, etc.); other pollution prevention measures (e.g., use of materials with recycled content) as well as impacts to noise, traffic, air and water quality, wildlife and vegetation (could any endangered or threatened species be impacted?); erosion, sedimentation control, and impacts to historic resources.
6. The FEIS and draft Finding of No Significant Impact (FNSI) should be made available for public inspection at various public locations. It would be very beneficial to ensure the public is well informed at all times through frequent public meetings, flyers, announcements and public hearings.
7. The FEIS should address the needed and required permits, how to obtain them from the associated regulatory agencies and how to implement and comply with them.
8. The FEIS should address land cleared or forested clear-cut harvested trees and should describe the type and age of trees present; will the trees be harvested? Concerning cumulative impacts, recently (in the near past/present/future) how many other sites and cumulative number of acres of land will or have been cleared at the facility?
9. The FEIS should make sure decisions made based on archaeological surveys done in previous years are still valid.

10. The FEIS should address impacts to traditional American Indian resources, if any, under the various alternatives. Consultation with the American Indian Tribes/organizations should be

made and it should include a list of Tribes and or Native American Indian Organizations consulted about this project along with their responses and comments.

11. The FEIS should address the Graves and Repatriation Act – (NAGPRA) to identify National Register-eligible archaeological sites; to ensure proper evaluations are carried out in order to minimize the adverse impacts to historic properties in the project areas; and so that in the event burials are located during ground-disturbing activities, the proper procedures for unexpected discoveries are followed.

12. The FEIS should discuss in some detail if there was any EJ community involvement, follow-up analyses, and/or outreach efforts performed. Also, what impact will the project have on minority businesses?

13. In addition to the noise analyses to be done related to the entire site, the FEIS should also discuss what noise effects can be attributed to the temporary (state type and length of time) demolition and construction that will take place on the site.

14. The FEIS should establish the contractor's procedures for borrow materials which should be according to local and state soil conservation rules and regulations to ensure the quality of the fill to be used and where the fill is borrowed from (to ensure protection of that environment).

15. If there are any reasons to expect the contractor to encounter any contaminated soils, this should be discussed in detail in the FEIS and the proper studies of the site should be done along with the corrections before any work on the project is done by the contractor.

In addition, contaminated soils, solid wastes, chemicals and hazardous materials should be properly handled by licensed contractors and disposed in licensed sanitary landfills according to the type of waste; that chemicals and hazardous material be disposed of according to local, state, Federal and Clean Water Act (including RCRA and CERCLA) rules, regulations, guidelines and requirements.

16. The FEIS should address handling of aboveground/underground storage tanks (AST/UST), if any, according to the State and Federal rules regulations and guidelines. The FEIS should address the issue of removing or not removing them and should include state and federal documentation concurring/not concurring with the final decision.

17. The FEIS should address the potential for impacts from air toxics associated with the project.

18. In general, construction activities should be restricted to existing rights-of-way, if possible and best management practices should be utilized. Impacts to wetlands, floodplains, and other sensitive resources should be avoided. If avoidance is not possible, mitigation must be offered to minimize adverse impacts. If construction must run through a wetland, the area should be restored to its "natural" state. That is, the affected area should be returned to its original soil horizon as well as original contours. Also, the area should be re-vegetated with indigenous species.

If structures must be placed in a floodplain, they should be constructed to minimize the infiltration/inflow (I/I) of flood waters and should be sturdy enough to withstand the uplift and velocity forces of such waters. To minimize impacts to prime farmland and public health, water and sewer lines should not run directly through fields or obstruct the flow of water to crops. The land should be returned to its original contour and re-vegetated with indigenous plant life. Ancillary facilities (e.g., pump stations) should be designed so not to impede the natural flow of flood waters.

Since soil disturbance associated with the demolition and construction would require disturbance to the existing site soils topography it could generate considerable amounts of storm water, erosion and environmental harm, the owner should require the personnel

involved in the project, including the consultant engineers and contractors to comply with existing local, state and federal rules, regulations and guidelines to minimize potential adverse impacts on wetlands, groundwater, aquifers, creeks/rivers, lakes, ponds, reservoirs, and water quality. The owner should comply with the local and state erosion and sediment rules and guidelines; the Clean Water Act; the required state and COE permits; the Executive Order 11988 - Flood Plain Management and the Executive Order 11990 - Protection of Wetlands. Runoff controls should be updated periodically for the duration of the construction (e.g., every 2-3 months and maintained to help ensure success - e.g., silt fences emptied and hay bales replaced).

19. The FEIS should include the latest cumulative impacts (past, present and future and also the total direct and indirect impacts) analysis as they affect the air quality in the area.

20. The owner should encourage the contractors to maintain and operate all construction equipment per manufacturer's specifications and recommendations to minimize air emissions. The owner should also consider offering incentives for contractors to specify the use of retrofitted diesel equipment or purchase of available ultra-low diesel fuel in their bids. The FEIS should address the impact of the construction on the air quality if some of the construction could be done at night.

21. The long-term and indirect impacts of the proposed action should be considered. If the extension of service to the proposed users could cause further development of an environmentally sensitive area, alternate alignments/sites should be considered.

22. The FEIS should include Time Schedule showing proposed start and finish dates for each project task.

23. Recycling should be done according to Department of Defense (DoD) 4160.21-M/chapter 7 RESOURCE RECOVERY AND RECYCLING PROGRAM (RRRP) which states: All installations, worldwide, shall have recycling programs as required by Executive Order 12780. Pursuant to Public Law 97-214 (10 USC 2577), and DoD Instruction (DoDI) 4715.4, Pollution Prevention.

24. Ensure all projects repairs and rehabilitation should comply with the FEMA regulations and guidelines.

25. Permits information - Contact the appropriate Federal, State, County or City officials regarding permits and local ordinances.

26. Open Burning - The burning of materials for waste disposal purposes is referred to as open burning. Open burning permits and/or specific federal, state and local standards must be followed.

27. Ensure owners can afford the flood insurance after the property is rehabilitated.

28. The EPA suggests the recommendations made by Green Building to be followed whenever possible. Green or sustainable building is the practice of creating healthier and more resource-efficient models of construction, renovation, operation, maintenance, and demolition. Research and experience increasingly demonstrate that when buildings are designed and operated with their lifecycle impacts in mind, they can provide great environmental, economic, and social benefits.

Elements of Green building include:

- *Smart Growth and Sustainable Development
- *Energy Efficiency and Renewable Energy
- *Water Stewardship
- *Environmentally Preferable Building Materials and Specifications
- *Waste Reduction
- *Toxics and
- *Indoor Environments.

Additional information on **Green Building** can be found at:

<http://www.epa.gov/greenbuilding/>

<http://www.greenbuilding.com/>

www.epa.gov/greenbuilding

www.greenhighways.org

<http://www.usgbc.org/>

www.greenseal.org

Other Links

Waste Reduction Resource Center - hosted by North Carolina but it is an EPA Region 4 resource <http://wrrc.p2pays.org/Industrial materials> -

<http://www.epa.gov/osw/conservation/rrr/imr/index.htm>

http://www.fema.gov/plan/prevent/fhm/dl_zone.shtm

C&D - <http://www.epa.gov/osw/conservation/rrr/imr/cdm/>

www.epa.gov/nscep/

<http://www.pavementpreservation.org/toolbox/links/arrafull.pdf>

<http://www.secement.org/fdr.htm>

http://www.cement.org/pavements/pv_sc_fdr.asp

<http://www.techtransfer.berkeley.edu/newsletter/04-2/refs.php>

<http://www.youtube.com/watch?v=s7w7gsFYNzA>